

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

SIERRA CLUB,

Plaintiff-Intervenor,

v.

AMEREN MISSOURI,

Defendant.

Civil Action No. 4:11-cv-00077-RWS

**EXHIBIT 1 TO  
PLAINTIFF UNITED STATES' NOTICE REGARDING AMEREN'S NON-  
COMPLIANCE WITH THIS COURT'S REMEDY ORDER, AND REQUEST FOR  
STATUS CONFERENCE**



December 23, 2019

CERTIFIED MAIL

Mr. Ed Galbraith  
Director, Division of Environmental Quality  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102-0176

Subject: Construction Permit Application  
Ameren Missouri Rush Island Energy Center  
Installation ID 099-0016

Dear Mr. Galbraith:

On September 30, 2019 and in a Clean Air Act enforcement matter pending in federal court in the Eastern District of Missouri, the district court issued a ruling requiring Union Electric Company, d/b/a Ameren Missouri to install pollution control equipment at the Rush Island Energy Center. Ameren Missouri has appealed the September 30 remedy decision along with an earlier 2017 liability ruling to the Eighth Circuit Court of Appeals. In the order, the Court determined that under the facts presented, wet flue gas desulfurization constituted best available control technology (BACT) for controlling SO<sub>2</sub> emissions. Judge Sippel has stayed implementation of the remedy ruling while this matter is on appeal but has required Ameren Missouri to file an application with the Missouri Department of Natural Resources (MDNR) within ninety (90) days from the date of the order. Enclosed are copies of the Stay Order along with Ameren's Motion to Stay.

Pursuant to the current scheduling order, the case will be fully briefed by the parties by March 9, 2020 and the case argued before the Court of Appeals in the summer or early fall 2020 with a decision issued sometime thereafter. Ameren Missouri's opening brief is due January 16, 2020 and we will provide the MDNR a copy of that filing. As outlined briefly in the stay motion, several of the appeal issues are dispositive and a ruling in Ameren's favor would result in a complete reversal of the district court's order.

However, to implement the remedy ordered by Judge Sippel, Union Electric Company, d/b/a Ameren Missouri herein submits an application for the installation of air pollution control equipment at the Rush Island Energy Center (Installation ID 099-0016). The application includes the specific emission rate and pollution control equipment technology chosen by the Court as constituting BACT. We have therefore submitted a construction permit application that implements the requirements of the September 30, 2019 Order.

Included with this letter are two copies of an application for authority to construct with attachment and the required \$250 filing fee. We welcome ongoing discussions regarding the appropriate authorization process given the atypical circumstances of this submittal.

Please call me at (314) 554-4908 if you have any questions regarding this application.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. C. Whitworth', with a stylized flourish at the end.

Steven C. Whitworth  
Senior Director  
Environmental Policy and Analysis

w/attachments



P.O. Box 66892 St. Louis, Missouri 63166

US BANK  
Miamisburg, OH

56-503  
422

CHECK  
NUMBER **1457242**

DATE  
12/17/19

AMOUNT  
**\$250.00**

PAY *Two Hundred Fifty Dollars And Zero Cents\*\**

PAY  
TO  
THE  
ORDER  
OF

STATE OF MISSOURI

DEPARTMENT OF NATURAL RESOURCES  
PO BOX 176  
JEFFERSON CITY, MO 651020176

AUTHORIZED SIGNATURE

THIS ACCOUNT PROTECTED BY POSITIVE PAY  
THIS CHECK VOID AFTER 180 DAYS

Details on back.  
Security Features Included

⑈ 1457242 ⑈ ⑆042205038⑆ 13010301368 ⑈

INVOICE NUMBER	DATE	DESCRIPTION	GROSS AMOUNT	DISCOUNT	NET AMOUNT
DR003886534	12/12/19	~144202~ .Rush Island NSR Permit Fee	250.00	0.00	250.00
CHECK NUMBER 1457242	DATE 12/17/19	VENDOR NAME STATE OF MISSOURI	VENDOR NUM 11755	TOTAL AMOUNT 250.00	

Acceptance and Endorsement of attached check will acknowledge payment in full of Amount as stated \*

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